

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6137**

**BILL NUMBER:** SB 306

**NOTE PREPARED:** Nov 20, 2006

**BILL AMENDED:**

**SUBJECT:** Criminal History Checks.

**FIRST AUTHOR:** Sen. Hershman

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill specifies that a limited criminal history check includes arrests even if there is no disposition. The bill requires requests for limited criminal history submitted by noncriminal justice agencies and individuals to be name-based, and requires the State Police Department to inform persons who receive criminal history information of the scope of the information.

The bill requires a court to order a convicted defendant to be fingerprinted unless the defendant was arrested and processed at the county jail, and requires the Security and Privacy Council to adopt rules to ensure the uniform and efficient submission of criminal history data to the State Police Department. It also grants civil immunity to prosecuting attorneys, clerks, and law enforcement officials for good faith errors or omissions that relate to the transmission of fingerprints or other criminal history data.

The bill permits an employer to request a limited criminal history check of an employee who provides services involving contact with children or individuals who are mentally ill or disabled. The bill also makes other changes and conforming amendments.

(The introduced version of this bill was prepared by the Sentencing Policy Study Committee.)

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** (A) *Modification of the Definition of a Limited Criminal History:* The bill modifies the definition of a limited criminal history through eliminating the requirement that it include information about any arrest or criminal charge that occurred less than one-year before the date of a request. The Indiana State Police (ISP) reports that modification of its criminal history database can be completed

within the agency's existing level of resources.

*(B) Modification of Criminal History Requests Allowed by Individuals:* The bill modifies the type of criminal history check which can be requested by an individual through creating a name-based criminal history check. A name-based criminal history check means a search of criminal history data maintained by the ISP that is conducted using the individual's name and other identifying information and does not use fingerprint identification or another method of positive identification.

Under current law, a person may request a criminal history check review challenge (fingerprint identification is required) prior to having obtained a limited criminal history (can be obtained through subject or fingerprint identification).

As proposed, the individual would not be able to obtain a review challenge until they first obtain a name-based limited criminal history check. This could potentially reduce the ISP workload. Review challenges require more review than do name-based limited criminal history checks because they require fingerprint identification. However, it should be noted that individuals would still be able to obtain a name-based limited criminal history check and subsequently request a review challenge. In addition, individuals might request a name-based limited criminal history check in place of a review challenge. This provision would likely impact the workload of the ISP; however, the actual impact is indeterminable.

*(C) Addition to List of Noncriminal Justice Organizations Able to Request Limited Criminal History Checks:* The bill adds persons employed by a noncriminal justice organization or an individual who provides services that involve contact with, care of, or supervision over, a child or an individual who is mentally ill, physically disabled, or developmentally disabled to the list of noncriminal justice organization and individuals that law enforcement agencies are required to release limited criminal history information to. This provision could potentially increase the workload for the ISP. Actual increases would be dependent on the number of additional limited criminal history checks requested.

*(D) Addition of Written Notice to Limited Criminal History Check Information:* The bill requires the ISP to provide noncriminal justice organizations or individuals who request a limited criminal history check with a notice in writing which pertains to criminal background check information provided to the organization or individual. The ISP reports that it currently includes a written notice with criminal background check information and should be able to modify the notice within the ISP's existing level of resources.

*(E) Requirement for Security and Privacy Council to Establish Transmission of Criminal History Procedures:* The bill requires the Security and Privacy Council to establish procedures to ensure the uniform and efficient transmission of criminal history data, including the development of an electronic format for submission of the data. The Council is comprised of nine members; however, it has only met once since its establishment in 1981 and does not currently have members appointed. Members of the Council would be entitled to reimbursement for per diem and mileage. Expenditures would be dependent on the number of meetings held and the amount of per diem and mileage reimbursement per meeting.

Note: Additional costs may be experienced by the ISP as a result of procedures established by the Council. Actual costs would depend on administrative action.

*(F) Requirement to Fingerprint all Persons after Sentencing for an Offense:* The bill requires the courts to order a defendant to be fingerprinted immediately after sentencing for an offense if the defendant was not previously arrested and processed at a county jail. Sheriffs are responsible for fingerprinting of defendants.

The Indiana Sheriffs' Association (ISA) reports that this provision of the bill would likely increase workload for sheriffs. However, the number of persons who are not fingerprinted prior to sentencing is likely small. Actual increase in workload would be dependent on the number of additional persons needing to be fingerprinted.

**Explanation of State Revenues:** (B) *Modification of Criminal History Requests Allowed by Individuals:* Under the bill, revenue to the state General Fund would likely change. Fees vary for limited criminal history background checks and are dependent on the method in which the information is obtained. Revenue from fees collected is deposited into the state General Fund and the Indiana Office of Technology (IOT) Portal Fund (see table below). The IOT reports that the Portal Fund is used to maintain and modify AccessIndiana webpages.

The state would likely experience a change in revenue. Actual change is indeterminable and would be dependent on the number of persons currently requesting a review challenge (for which the state would experience a decrease of \$10 per review challenge) and the number of people who would under the bill (1) obtain a name-based limited criminal history check (for which the state would experience an increase in revenue) or (2) obtain a name-based limited criminal history check (for which the state would experience an increase in revenue) and then subsequently obtain a review challenge (for which the state would experience an increase in revenue of \$10 per review challenge).

Limited Criminal History Background Check Fees				
Type of Fee	Information Obtained Through	Amount of Fee	Amount of Fee Deposited into State General Fund	Amount of Fee Deposited into IOT Portal Fund
AccessIndiana (Subscriber )	AccessIndiana Website	\$15	\$7	\$8
AccessIndiana (Non-Subscriber)	AccessIndiana Website	\$16.32	\$7	\$9.32
Mail/In-Person	Mail; In-Person	\$7	\$7	\$0
Partial Exemption	AccessIndiana Website; Mail; In-Person	\$7	\$7	\$0
Full Exemption	AccessIndiana Website; Mail; In-Person	\$0	\$0	\$0
Review Challenge	Mail; In-Person	\$10	\$10	\$0

(C) *Addition to List of Noncriminal Justice Organizations Able to Request Limited Criminal History Checks:* This provision could potentially increase revenue for the state. Actual increases are dependent on the number of additional limited criminal history checks requested and the fee paid for each check.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Indiana State Police; Indiana Office of Technology.

**Local Agencies Affected:** Local law enforcement agencies.

**Information Sources:** Sherry Beck, ISP; Tony Sommer, ISP; Steve Johnson, Indiana Prosecuting Attorney's Council; Chris Cotterill, Indiana Office of Technology; Doug Gosser, Indiana Sheriffs' Association.

**Fiscal Analyst:** Sarah Brooks, 317-232-9559.